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DYKAS, SHAVER & NIPPER, LLP			CHORBAJI, MONZER R	
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1744

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,400

Applicant(s)

MICHAELSON ET AL.

Examiner

MONZER R. CHORBAJI

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4,5 and 7-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4,5 and 7-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This non-final action is in response to the RCE/Amendment received on 08/07/2006

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 2, 7, 9-10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502).

With respect to claim 2, the Temple reference discloses a rigid transport rack (figure 4:10 and col.1, lines 17-18), which is stiff and in a fixed position is capable of being non-folding when loaded with containers. The rigid transport rack includes the following: pair of opposing side walls (entire side wall 18 and 17 in figure 4), bottom (bottom horizontal shelf in figure 3) and a back wall (back wall in figure 1 which is made up of 24 and 23), all interconnected for forming a rectangular box of a pre-selected dimension (col.3, lines 55-58 and col.3, lines 65-67 and col.4, lines 1-2), opposing side walls and back and bottom walls each having plurality of holes (for example, figure 1:18, 17, back wall which is made up of 24 and 23), rack is open to the front and the top (figure 4:C), pair of horizontally disposed flanges attached to the tops of the opposing side walls (unlabeled part of 28 in figure 3 that extends horizontally as to being part of 18 and 17), each of flanges having a hole therein (28 in figure 3 has unlabeled hole within it), horizontal shelf attached to opposing side walls (upper shelf in figure 3 is attached to opposing side walls 17 and 18) and back wall, the horizontal shelves are capable of supporting plurality of cassettes and a plurality of cassettes adapted for placement upon the shelf and the bottom (figure 4:C). However, the Temple reference fails to teach that the cartons have hinged tops. The Spencer reference discloses a cassette with a hinged top (figure 1:10, 24 and 47). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made

to modify the cassette of the Temple reference by including a hinged top as taught by the Spencer reference since the hinge assemblies cooperate so as to allow the lid to pivot relative to the tray (col.4, lines 36-39).

With respect to claim 7, the Temple reference fails to teach that the rectangular cassettes (figure 4:C) include a pair of opposing latches for releasably securing the hinged top to the cassette; however the Spencer reference discloses a pair of opposing latches (figure 1:42) such that opposing pressure must be simultaneously applied to each latch so that the latches and the top are released (figure 1:44, 46 and 24). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including a latch mechanism as taught by the Spencer reference in order to secure dental instruments within the cassette (col.4, lines 48-50).

With respect to claims 9-10 and 14, the Temple reference teaches that the size and the number of shelves can be modified (col.3, lines 65-67 and col.4, lines 1-2) to accommodate for various sizes of cassettes whose bottom wall is the means for supporting various items including dental or orthodontic tools. As a result, the shelves are capable of supporting any number of cassettes with different dimensions.

5. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Williams et al (U.S.P.N. 4,915,913).

With respect to claims 15-6, both the Temple reference and the Spencer reference fail to teach placing indicia on the cassettes; however, the Williams reference

teaches placing indicia on cassettes that include information about the contents of the cassette (col.9, lines 58-64). Furthermore, the Williams reference teaches using means (col.2, lines 11-12) for color-coding the cassettes (col.2, lines 14-19). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including identification cards on the cassettes as taught by the Williams reference so that a user will identify the contents of the cassettes without opening them (col.9, lines 60-64).

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Remington (U.S.P.N. 4,364,150).

With respect to claim 4, the Temple reference teaches a top handle having a horizontally oriented rail (figure 4:22 has unlabeled horizontally oriented top bar) is capable upon attachment to the rack to receive and vertically hold plurality of dental or orthodontic pliers. In addition, the Temple reference discloses a top handle (figure 4, unlabeled horizontal part of 22) having a pair of opposing and downwardly extending wires (figure 4, unlabeled downwardly extending left and right parts of 22). The Temple reference fails to teach a top handle having upwardly extending pins such that the downwardly extending plates interfit underneath opposing flanges with the upwardly extending pins interfitting within the holes of the flanges. The Spencer reference fails to teach a top handle having a pair of opposing and downwardly extending plates with upwardly extending pins. The Remington reference, which is in the art of designing handles, teaches a top handle (figure 1:20) with a horizontal rail (figure 1:28) having the

following: a pair of opposing and downwardly extending plates (figure 1:42), upwardly extending pins (figure 2:66), top handle configured to interfit underneath opposing flanges (figure 2:30 and the unlabeled rib or rim of the upper part of 38 is construed as flange) and the upwardly extending pins (figure 4:66) interfitting within the holes of the flange (figure 4:70). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the handle structure of the Temple reference with the handle assembly of the Remington reference in order to design handles that have good strength with low production costs (Remington reference, col.6, lines 57-64).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Rouse (U.S.P.N. 5,006,066) and Jerge et al (U.S.P.N. 4,541,992).

With respect to claim 5, both the Temple reference and the Spencer reference fail to teach a side handle for insertion into its transport rack; however, the Rouse reference, which is in the art of designing holders for dental devices teaches a side handle (figure 2:11) that includes the following: a pair of horizontally disposed insertion rails (figure 2:74, 76, 75 and 77), each having an outwardly extending engagement connection (figure 2:72 and 73), insertion rails attached to a front rail (in figure 2, 74, 76, 75 and 77 are attached to a front rail the connection area between 72, 73 and inner surface of 16 and 17), downwardly extending lever handle (figure 2:16 and 17) attached to the front rail and the insertion rails designed for insertion into the rack (col.6, lines 15-30). Thus, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to modify the transport rack of the Temple reference by including dental burr holders as disclosed by the Rouse reference since the improved burr holder functions to protect the delicate dental burr cutting ends and which provides a convenient holder for supporting the dental burrs between uses (col.2, lines 39-43).

With respect to claim 5, the Rouse reference teaches insertion rails (figure 2:74, 76, 75 and 77) having an outwardly extending engagement connection, but fails to teach insertion rails having upwardly extending engagement pin. The Jerge reference teaches the use of an upwardly extending engagement pin (figure 9:64). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the engagement pin of the Jerge reference for the outwardly extending engagement connection of the Rouse and place the side handle of the Rouse reference on the transport rack of the Temple reference since the latch pieces are slidable to and from latching and unlatching positions (col.3, lines 33-37).

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 7 and further in view of Kudla et al (U.S.P.N. 5,215,726).

With respect to claim 8, both the Temple reference and the Spencer reference fail to teach a plier rack pivotally mounted within the cassette and configured to lay within the cassette when the hinged top is closed and to pivot to an upright position when the hinged top is open. The Kudla reference teaches a plier rack pivotally mounted within the cassette and configured to lay within the cassette when the hinged top is closed and to pivot to an upright position when the hinged top is open (figure 1:20

where the cassette is in closed position, figure 2:40 and co.5, lines 42-58). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassettes of the Temple reference with cassettes that includes clamping members as taught by the Kudla reference since when the clamping member is in closed position it holds instruments in place (col.5, lines 52-58).

9. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 7 and further in view of Wittrock et al (U.S.P.N. 5,482,067).

With respect to claims 11-12, the Temple reference teaches rectangular cassettes (figure 4:C), but fails to teach a rectangular cassette having the following: a hinged top, walls having plurality of holes, the hinge is a double hinge that includes a first horizontally oriented hinge and a second hinge connecting the upper half of the wall to the top cover. The Spencer reference discloses a rectangular cassette having a hinged top with walls having plurality of holes (figure 1:10 and 36). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including a hinged top as taught by the Spencer reference since the hinge assemblies cooperate so as to allow the lid to pivot relative to the tray (col.4, lines 36-39).

With respect to claims 11-12, the Spencer reference fails to teach that the hinge is a double hinge that includes a first horizontally oriented hinge and a second hinge connecting the upper half of the wall to the top cover; however, the Wittrock discloses a double hinge (figure 2:40, 14 and 12) that includes a first horizontally oriented hinge

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(figure 2:62) dividing the end wall (unlabeled end wall in figure 2) into upper (figure 2, unlabeled upper part of bottom 14) and lower (figure 2, unlabeled lower part of bottom 14) halves and a second hinge (figure 2:60) connecting the upper half of the end wall to the top cover (figure 2:12). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including double hinge closing mechanism as taught by the Wittrock reference since double hinge prevents misalignment of the frames during transition from the open or closed modes or vice versa (col.1, lines 56-61).

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502), Wittrock et al (U.S.P.N. 5,482,067) as applied to claim 11 and further in view of Dabich (U.S.P.N. 4,535,908).

With respect to claim 13, both the Temple reference and the Spencer reference fail to teach the use of double hinge with cassettes, but the Wittrock discloses a double hinge (figure 2:40, 14 and 12) that includes a first horizontally oriented hinge (figure 2:62) interconnected to the end wall and the top cover (figure 2:62 and 42) and a second hinge (figure 2:60) oriented in juxtaposed relationship to the first hinge (figure 4 where two unlabeled hinges are in juxtaposed relationship to one another). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Spencer reference by including double hinge closing mechanism as taught by the Wittrock reference since double hinge prevents

misalignment of the frames during transition from the open or closed modes or vice versa (col.1, lines 56-61).

With respect to claim 13, the Wittrock reference fails to teach that the first hinge divides the top cover into two interconnected pieces; however, the Dabich reference, which is in the art of designing lids teaches the use of a double hinge lids where the first hinge (figure 6:30) divides the top cover into two interconnected pieces (figure 6:18 and 20). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including double hinge closing mechanism that provides two interconnected lids as taught by the Dabich reference since double hinge mechanism results in opening the inner lid with one hand by most users (col.4, lines 27-33).

11. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502), as applied to claim 2 and further in view of Chen (U.S.P.N. 5,154,611).

With respect to claim 17, both the Temple reference and the Spencer reference fail to teach the use of an orthodontic band or dental tray for holding plurality of different bands or dental crowns. The Chen reference teaches the use of an enodonic instrument tray (figure 4:30 and 50) that includes the following: bottom plate (figure 4, unlabeled bottom for tray 50), pair of opposing side walls (figure 4, unlabeled side walls for try 50), front wall (figure 4, unlabeled front and back walls for tray 50), plurality of interior divider walls (figure 4, unlabeled interior divider walls), made of a heat resistant material (col.5, lines 35-39) and the bottom plate having plurality of holes (figure 4, 64). Thus, it would

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have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including endodontic instrument cassettes as taught by the Chen reference so that endodontic instruments used for root canal treatment can be stored in a container (col.2, lines 36-43).

12. Claims 2, 7, 9-10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502).

With respect to claim 2, the Ochs reference discloses a rigid non-folding transport rack (figure 1, col.1, lines 15-16 and col.1, lines 50-55) that includes the following: a pair of opposing side walls (figure 1:12), bottom (figure 1:8) and a back wall (figure 1:13), all walls are interconnected for forming a rectangular box of a pre-selected dimension (col.1, lines 12-14), opposing side walls and back and bottom walls each having plurality of holes (col.1, lines 65-68), rack is open to the front and the top (see figure 1), a pair of horizontally extending side flanges (horizontal bars 27 in side walls 12 of figure 1 connected vertically to each other with hooks 21 on both sides of the rigid transport rack) attached to the tops (figure 1:9 and 16) of the side walls (figure 1:12) where each of opposing flanges has one hole therein (hole within the side flange of unlabeled horizontal bars in side walls 12 of figure 1 connected vertically to each other with hooks 21), a horizontal shelf attached to opposing side walls (figure 1:20) and a plurality of cassettes (col.1, lines 12-14). However, the Ochs reference fails to teach that the packages have hinged tops. The Spencer reference discloses a cassette with a hinged top (figure 1:10, 24 and 47). Thus, it would have been obvious to one having

ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including a hinged top as taught by the Spencer reference since the hinge assemblies cooperate so as to allow the lid to pivot relative to the tray (col.4, lines 36-39).

With respect to claim 7, the Ochs reference fails to teach that the packages include a pair of opposing latches for releasably securing the hinged top to the cassette; however the Spencer reference discloses a pair of opposing latches (figure 1:42) such that opposing pressure must be simultaneously applied to each latch so that the latches and the top are released (figure 1:44, 46 and 24). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the rack of the Ochs reference by including a latch mechanism as taught by the Spencer reference in order to secure dental instruments within the cassette (col.4, lines 48-50).

With respect to claims 9-10 and 14, the Ochs reference teaches that the of the rack and can be modified (col.3, lines 65-67 and col.4, lines 1-2) to accommodate for various sizes of packages whose bottom wall is the means for supporting various items including dental or orthodontic tools. As a result, the shelves are capable of supporting any number of packages or cassettes with different dimensions.

13. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Williams et al (U.S.P.N. 4,915,913).

With respect to claims 15-6, both the Ochs reference and the Spencer reference fail to teach placing indicia on the packages; however, the Williams reference teaches

placing indicia on cassettes that include information about the contents of the cassette (col.9, lines 58-64). Furthermore, the Williams reference teaches using means (col.2, lines 11-12) for color-coding the cassettes (col.2, lines 14-19). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the package of the Ochs reference by including identification cards on the cassettes as taught by the Williams reference so that a user will identify the contents of the cassettes without opening them (col.9, lines 60-64).

14. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Remington (U.S.P.N. 4,364,150).

With respect to claim 4, the Ochs reference teaches a top handle having a horizontally oriented rail (figure 1:17) such that the top handle in combination with the rigid rack is capable of receiving and vertically holding plurality of dental or orthodontic pliers. The Ochs reference fails to teach a top handle having a pair of opposing and downwardly extending plates and also having upwardly extending pins such that the handle interfits underneath the opposing flanges. The Spencer reference also fails to teach a top handle having a pair of opposing and downwardly extending plates with upwardly extending pins. The Remington reference, which is in the art of designing handles, teaches a top handle (figure 1:20) with a horizontal rail (figure 1:28) having the following: a pair of opposing and downwardly extending plates (figure 1:42), upwardly extending pins (figure 2:66), top handle configured to interfit underneath opposing flanges (figure 2:30 and the unlabeled rib or rim of the upper part of 38 is construed as

flange) and the upwardly extending pins (figure 4:66) interfitting within the holes of the flange (figure 4:70). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the handle structure of the Ochs reference with the handle assembly of the Remington reference in order to design handles that have good strength with low production costs (Remington reference, col.6, lines 57-64).

15. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Rouse (U.S.P.N. 5,006,066) and Jerge et al (U.S.P.N. 4,541,992).

With respect to claim 5, both the Ochs reference and the Spencer reference fail to teach a side handle for insertion into its transport rack; however, the Rouse reference, which is in the art of designing holders for dental devices teaches a side handle (figure 2:11) that includes the following: a pair of horizontally disposed insertion rails (figure 2:74, 76, 75 and 77), each having an outwardly extending engagement connection (figure 2:72 and 73), insertion rails attached to a front rail (in figure 2, 74, 76, 75 and 77 are attached to a front rail the connection area between 72, 73 and inner surface of 16 and 17), downwardly extending lever handle (figure 2:16 and 17) attached to the front rail and the insertion rails designed for insertion into the rack (col.6, lines 15-30). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the transport rack of the Ochs reference by including dental burr holders as disclosed by the Rouse reference since the improved burr holder

functions to protect the delicate dental burr cutting ends and which provides a convenient holder for supporting the dental burrs between uses (col.2, lines 39-43).

With respect to claim 5, the Rouse reference teaches insertion rails (figure 2:74, 76, 75 and 77) having an outwardly extending engagement connection, but fails to teach insertion rails having upwardly extending engagement pin. The Jerge reference teaches the use of an upwardly extending engagement pin (figure 9:64). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the engagement pin of the Jerge reference for the outwardly extending engagement connection of the Rouse and place the side handle of the Rouse reference on the transport rack of the Ochs reference since the latch pieces are slidable to and from latching and unlatching positions (col.3, lines 33-37).

16. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 7 and further in view of Kudla et al (U.S.P.N. 5,215,726).

With respect to claim 8, both the Ochs reference and the Spencer reference fail to teach a plier rack pivotally mounted within the cassette and configured to lay within the cassette when the hinged top is closed and to pivot to an upright position when the hinged top is open. The Kudla reference teaches a plier rack pivotally mounted within the cassette and configured to lay within the cassette when the hinged top is closed and to pivot to an upright position when the hinged top is open (figure 1:20 where the cassette is in closed position, figure 2:40 and co.5, lines 42-58). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made

to modify the cassettes of the Ochs reference with cassettes that includes clamping members as taught by the Kudla reference since when the clamping member is in closed position it holds instruments in place (col.5, lines 52-58).

17. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 7 and further in view of Wittrock et al (U.S.P.N. 5,482,067).

With respect to claims 11-12, the Ochs reference teaches that packages (i.e., cassettes) or other articles of various sizes are placed in the rigid rack (col.1, lines 12-14), but fails to teach a rectangular cassette having the following: a hinged top, walls having plurality of holes, the hinge is a double hinge that includes a first horizontally oriented hinge and a second hinge connecting the upper half of the wall to the top cover. The Spencer reference discloses a rectangular cassette having a hinged top with walls having plurality of holes (figure 1:10 and 36). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including a hinged top as taught by the Spencer reference since the hinge assemblies cooperate so as to allow the lid to pivot relative to the tray (col.4, lines 36-39).

With respect to claims 11-12, the Spencer reference fails to teach that the hinge is a double hinge that includes a first horizontally oriented hinge and a second hinge connecting the upper half of the wall to the top cover; however, the Wittrock discloses a double hinge (figure 2:40, 14 and 12) that includes a first horizontally oriented hinge (figure 2:62) dividing the end wall (unlabeled end wall in figure 2) into upper (figure 2,

unlabeled upper part of bottom 14) and lower (figure 2, unlabeled lower part of bottom 14) halves and a second hinge (figure 2:60) connecting the upper half of the end wall to the top cover (figure 2:12). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including double hinge closing mechanism as taught by the Wittrock reference since double hinge prevents misalignment of the frames during transition from the open or closed modes or vice versa (col.1, lines 56-61).

18. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502), Wittrock et al (U.S.P.N. 5,482,067) as applied to claim 11 and further in view of Dabich (U.S.P.N. 4,535,908).

With respect to claim 13, both the Ochs reference and the Spencer reference fail to teach the use of double hinge with cassettes, but the Wittrock discloses a double hinge (figure 2:40, 14 and 12) that includes a first horizontally oriented hinge (figure 2:62) interconnected to the end wall and the top cover (figure 2:62 and 42) and a second hinge (figure 2:60) oriented in juxtaposed relationship to the first hinge (figure 4 where two unlabeled hinges are in juxtaposed relationship to one another). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including double hinge closing mechanism as taught by the Wittrock reference since double hinge prevents misalignment of the frames during transition from the open or closed modes or vice versa (col.1, lines 56-61).

With respect to claim 13, the Wittrock reference fails to teach that the first hinge divides the top cover into two interconnected pieces; however, the Dabich reference, which is in the art of designing lids teaches the use of a double hinge lids where the first hinge (figure 6:30) divides the top cover into two interconnected pieces (figure 6:18 and 20). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including double hinge closing mechanism that provides two interconnected lids as taught by the Dabich reference since double hinge mechanism results in opening the inner lid with one hand by most users (col.4, lines 27-33).

19. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502), as applied to claim 2 and further in view of Chen (U.S.P.N. 5,154,611).

With respect to claim 17, both the Ochs reference and the Spencer reference fail to teach the use of an orthodontic band or dental tray for holding plurality of different bands or dental crowns. The Chen reference teaches the use of an enodonic instrument tray (figure 4:30 and 50) that includes the following: bottom plate (figure 4, unlabeled bottom for tray 50), pair of opposing side walls (figure 4, unlabeled side walls for try 50), front wall (figure 4, unlabeled front and back walls for tray 50), plurality of interior divider walls (figure 4, unlabeled interior divider walls), made of a heat resistant material (col.5, lines 35-39) and the bottom plate having plurality of holes (figure 4, 64). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including enodonic instrument

cassettes as taught by the Chen reference so that endodontic instruments used for root canal treatment can be stored in a container (col.2, lines 36-43).

Response to Arguments

20. Applicant's arguments filed on 08/07/2006 have been fully considered but they are not persuasive.

On page 9 of the Remarks/Arguments section, applicant argues that, "However, a review of the Temple reference itself (a marked up copy of the figures are shown in the attached Exhibit) shows that there are no flanges connected to the top portions of the opposing walls as the plain language of the claim requires. Furthermore, the items that the examiner has asserted to be flanges, are not only not connected to the top of the opposing walls, they also fail to be horizontally disposed or to contain any holes therein." The examiner disagrees since Temple rack includes a pair of horizontally disposed flanges attached to the tops of the opposing sidewalls (figure 3:28, 18 and 17) and each of flanges having a hole therein (28 in figure 3 has unlabeled hole within it). In addition, the Temple reference teaches a top handle having a horizontally oriented rail (figure 4:22 has unlabeled horizontally oriented top bar) that is capable of receiving and vertically holding plurality of dental or orthodontic pliers placed in the rack.

On page 9 of the Remarks/Arguments section, applicant argues that, "Furthermore, the shelves in the Temple references are folding wire racks that are configured to hold cigarettes upon folding shelves and have no connection with the opposing sides of the rack. These items are made from wire and as such do not have true sides or surfaces but more correctly form a support structure upon which the cigarette cartons can be

placed. The examiner disagrees since Temple does not limit the rack to supporting cigarette cartons only; the rack is capable of supporting any type of container (col.1, lines 2-4) and the horizontal shelves are attached to the opposing side walls (upper shelf in figure 3 is attached to opposing side walls 17 and 18) where the upper shelf in figure 3 has unlabeled surfaces of the upper portions of wires unlabeled sides of the wires. In addition, Temple discloses a rigid transport rack (figure 4:10 and col.1, lines 17-18), which is stiff and in a fixed position is capable of being non-folding when loaded with containers.

On page 9 of the Remarks/Arguments section, applicant argues that, "Applicant has further amended claim 2 so as to require that the shelves are in contact with the opposing sides and the back of the device, and that these flanges are not only horizontally disposed but that these flanges also extend in a horizontal plane." Temple discloses a pair of horizontally disposed flanges attached to the tops of the opposing side walls (unlabeled part of 28 in figure 3 that extends horizontally as to being part of 18 and 17). Ochs discloses a pair of horizontally extending side flanges (horizontal bars 27 in side walls 12 of figure 1 connected vertically to each other with hooks 21 on both sides of the rigid transport rack) attached to the tops (figure 1:9 and 16) of the side walls (figure 1:12).

On page 10 of the Remarks/Arguments section, applicant argues that, "However, a review of the attached drawing from the Ochs device clearly shows that all of the features of claim 2 are not present in this reference. The Ochs device does not have horizontally disposed flanges with holes that are connected to the top portion of the

sides see Exhibit 2. These features are however, shown in the attached Figure 1 from the present application see Exhibit 3. A simple comparison of these two items clearly shows that the claimed features which are present in the pending application are not present in the Ochs reference." The examiner disagrees. Ochs discloses a rigid transport rack (figure 1, col.1, lines 15-16 and col.1, lines 50-55) that includes a pair of horizontally disposed side flanges (unlabeled horizontal bars in side walls 12 of figure 1 connected vertically to each other with hooks 21 on both sides of the rigid transport rack) attached to the tops (figure 1:9 and 16) of the side walls (figure 1:12) where each of opposing flanges has one hole therein (hole within the side flange of unlabeled horizontal bars in side walls 12 of figure 1 connected vertically to each other with hooks 21) and a horizontal shelf attached to opposing side walls (figure 1:20). In evaluating the instant claims, the examiner is not limited to construe the structural limitations to the submitted Exhibit 3.

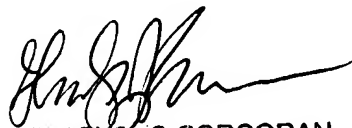
Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 9:00-5:30.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GLADYS J. CORCORAN can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MRC 


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